



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Simon J. Forster, D.C.

Respondent Name

Accident Fund Insurance Company of America

MFDR Tracking Number

M4-17-3596-01

Carrier's Austin Representative

Box Number 6

MFDR Date Received

August 9, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The code 97750 was performed following a Designated Doctor referral and therefore billed in conjunction with '99456-W5', (**not** just '99456' without the W5 proprietary DWC modifier) ... ***Any additional testing is performed separately to the exams, and not as a component of the exams.***"

Amount in Dispute: \$209.96

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "After review of the file, the carrier has determined that Dr. Forster's bill for DOS 3/23/17 was correctly audited."

Response Submitted by: Stone Loughlin Swanson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 23, 2017	Physical Performance Test (97750-GP)	\$209.96	\$174.43

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
3. 28 Texas Administrative Code §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating provided on or after September 1, 2016.

4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 906 – In accordance with clinical based coding edits (National Correct Coding Initiative/Outpatient Code Editor), component code of comprehensive medicine, evaluation and management services procedure (90000-99999) has been disallowed.
 - 97 – Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
 - W3 – Additional payment made on appeal/reconsideration.

Issues

1. Are the insurance carrier's reasons for denial or reduction of payment supported?
2. Is Simon J. Forster, D.C. entitled to reimbursement for the disputed services?

Findings

1. Dr. Forster is seeking reimbursement of \$209.96 for a physical performance test in conjunction with a designated doctor examination he performed. The date of service for the service in question is March 23, 2017.

Accident Fund Insurance Company of America (AFICA) denied disputed services with claim adjustment reason codes:

- 906 – "IN ACCORDANCE WITH CLINICAL BASED CODING EDITS (NATIONAL CORRECT CODING INITIATIVE/OUTPATIENT CODE EDITOR), COMPONENT CODE OF COMPREHENSIVE MEDICINE, EVALUATION AND MANAGEMENT SERVICES PROCEDURE (90000-99999) HAS BEEN DISALLOWED."
- 97 – "PAYMENT ADJUSTED BECAUSE THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED."

28 Texas Administrative Code §134.250(5) states, "If the examination for the determination of MMI and/or the assignment of IR requires testing that is not outlined in the AMA Guides, the appropriate CPT code(s) shall be billed and reimbursed in addition to the fees outlined in paragraphs (3) and (4) of this section."

Further, 28 Texas Administrative Code §134.203(a)(7) states, in relevant part, "Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program."

Because the service in question is additional testing to aid in the division-specific services of determination of maximum medical improvement and impairment rating, CMS policies, such as the National Correct Coding Initiative do not apply. AFICA's denial reasons are not supported.

2. 28 Texas Administrative Code §134.203(c) states,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83...
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the division conversion factor. The division conversion factor for 2017 is \$57.50.

For CPT code 97750 on March 23, 2017, the relative value (RVU) for work of 0.45 multiplied by the geographic practice cost index (GPCI) for work of 1.000 is 0.45. The practice expense (PE) RVU of 0.46 multiplied by the PE GPCI of 1.020 is 0.46920. Per Medicare policy, when more than one unit of designated therapy services is performed on the same day, full payment is made for the first unit of the procedure with the highest practice expense. Payment for each subsequent unit is reduced by 50% of the practice expense. The reduced PE for subsequent units is 0.23460. The malpractice RVU of 0.02 multiplied by the malpractice (MP) GPCI of 0.757 is 0.01540. The sum of the calculations for the first unit, 0.934340, is multiplied by the Division conversion factor of \$57.50 for a total of \$53.72. The sum of the calculations for subsequent units, 0.699740, is multiplied by the division conversion factor of \$57.50 for a total of \$40.24. The total reimbursement for 4 units is \$174.43. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$174.43.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$174.43, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	Laurie Garnes	September 8, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim. The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.